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Chair: Ms. Mejía Vélez ..... (Colombia)

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The meeting was called to order at 10.15 a.m.

Address by the President of the General Assembly

1. **Mr. Thomson** (Fiji), President of the General Assembly, said that many people worldwide continued to be subject to daily violations of their human rights. The scale of events in Syria, which were having a devastating impact on the Syrian people and their country with regional and global reverberations, had been the subject of a recent informal General Assembly briefing.

2. The unfolding humanitarian and refugee crisis was on a scale that had not been seen since the Second World War, and included entire communities that were being forcibly displaced by climate change and natural disasters. As the situation was expected to deteriorate further, the impact of climate change on people must be examined as a human rights concern, as well as a security, development and environmental issue. The adoption of the New York Declaration for Refugees and Migrants was an important step, and his office would place priority on its follow-up.

3. The work of the Third Committee was fundamental to upholding existing human rights standards, protecting the human rights of all individuals, and ensuring that the human rights dimensions of new and emerging challenges were elevated and understood. The growing collaboration between human rights experts in New York and Geneva was to be commended.

4. The 2030 Agenda for Sustainable Development was critical to realizing the human rights of all people, and achievement of the Sustainable Development Goals would require the promotion and protection of those rights. The 2030 Agenda must be implemented in line with the United Nations Charter, international treaties and international law for it to be effective. To that end, people around the world must be aware of their human rights, understand the impact of human rights on their lives, and be empowered to ensure the promotion and protection of those rights within their communities and with authorities.

5. At the seventieth session, a considerable amount of work had been undertaken to align the agenda of the General Assembly with the 2030 Agenda. It aimed to ensure that the work of the General Assembly, as well as of the Economic and Social Council, contributed to the effective and efficient implementation of the relevant frameworks. The guidance and proposals of Member States were welcomed in that regard.

Agenda item 68: Promotion and protection of human rights (*continued*) (A/71/40 and A/C.3/71/4)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/71/56, A/71/254, A/71/255, A/71/269, A/71/271, A/71/273, A/71/278, A/71/279, A/71/280, A/71/281, A/71/282, A/71/284, A/71/285, A/71/286, A/71/287, A/71/291, A/71/299, A/71/302, A/71/303, A/71/304, A/71/305, A/71/310, A/71/314, A/71/317, A/71/319, A/71/332, A/71/344, A/71/344/Corr.1, A/71/348, A/71/358, A/71/367, A/71/368, A/71/369, A/71/372, A/71/373, A/71/384, A/71/385, A/71/405 and A/C.3/71/5)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/71/379-S/2016/788, A/71/540-S/2016/839, A/71/308, A/71/361, A/71/374, A/71/394, A/71/402, A/71/418, A/71/439, A/71/554 and A/C.3/71/5)

6. **Mr. Hernández Valencia** (Office of the High Commissioner for Human Rights), introducing the report on the independence of judges and lawyers (A/71/348) on behalf of Ms. Pinto, the Special Rapporteur on the independence of judges and lawyers, said that, since the Special Rapporteur had taken up her mandate, there had been a worrying number of attacks against lawyers and instances of interference with or restrictions to the free and independent exercise of their profession. A fair and effective system for the administration of justice presupposed an independent and impartial judiciary, as well as an independent legal profession. Lawyers played an essential role in democratic societies governed by the rule of law by helping to ensure access to justice and enforce and protect human rights.

7. Access to legal advice and assistance provided by an independent counsel was an important safeguard that helped to ensure fairness and public trust in the administration of justice. Lawyers should be free from

external pressure, and States were therefore under the obligation to protect them from any undue interference from authorities or non-State actors. When defending the human rights and fundamental freedoms of their clients, lawyers should be protected under the Declaration on Human Rights Defenders. To ensure the integrity of the legal profession, they should also act in accordance with professional codes of ethics and avoid compromising their independence or professional standards to please third parties.

8. Lawyers had suffered disbarment, attacks to their physical integrity and reputation, arbitrary detention, prosecution and other sanctions due to identification with their client or the cause that they had committed to defend and represent before judicial authorities. For instance, lawyers who represented and defended people charged under counter-terrorism laws were commonly stigmatized by authorities and the general public, or subjected to defamatory remarks in the media and social networks. Such attacks occurred even in countries where lawyers were generally not at risk.

9. Lawyers and their clients, as well as the lawyer's place of work and personal residence, should be protected from the illegal search and seizure of physical and electronic documents. Furthermore, undue interference with a lawyer's freedom of movement could adversely impact the ability to consult their clients, appear before courts and travel to meetings and events, thereby hindering the effective discharge of their professional functions. In certain countries, travel bans, sometimes followed by detention, made it nearly impossible for lawyers to carry out their work. Lawyers representing their clients before regional and international human rights courts and bodies should be awarded the same protections and guarantees as lawyers litigating in local tribunals, regardless of whether they were members of their national bar associations. Activities not directly related to the defence of clients or clients' causes, such as academic research and participation in legislative drafting processes, should likewise be protected from undue limitations or censorship. Contempt of court should not be used to hinder criticism of judicial organs in a democratic context.

10. Like her predecessors, the Special Rapporteur had received a large number of complaints alleging physical attacks against lawyers, as well as harassment, intimidation and threats to their physical integrity from State and non-State actors. International human rights law required States to take measures to address past injuries suffered by lawyers. They must respond appropriately to observed patterns of violence against lawyers by adopting urgent measures to protect lawyers, provide them with effective remedies and prevent further attacks.

11. Lawyers were particularly vulnerable to attacks and restrictions on their independence, especially from State authorities, in countries that had no independent bar associations. In places where bar associations were State-controlled, lawyers were often targeted by those organizations with groundless or arbitrary suspensions to practice or disbarment, frequently alongside further restrictions such as arbitrary detention and prosecution. Silencing or controlling bar associations eroded the rule of law and the possibility for people to realize their human rights.

12. In order to protect the independence of the legal profession, a fair and independent system for considering disciplinary proceedings for alleged violations of professional ethical rules should be established. Disbarment should only be imposed in the most serious cases of misconduct, as provided in the professional code of conduct, and only after a due process in front of an independent and impartial body granting all guarantees to the accused lawyer. Unfortunately, in many countries, lawyers were threatened with disbarment in order to undermine their independence or intimidate them to prevent the discharge of their professional duties. Threats often constituted an act of reprisal for activities lawyers carried out in the legitimate exercise of their professional responsibilities.

13. The Special Rapporteur was seriously concerned about the many States where the independence of lawyers was not fully protected in law, or where domestic legal guarantees were not adequately implemented and enforced. Domestic guarantees for the independence of the legal profession were often manipulated or curtailed by restrictive legislation, such as counter-terrorism or surveillance laws. Member States must take urgent measures to respect and protect the independence and rights of lawyers.

14. **Ms. Callamard** (Special Rapporteur on extrajudicial, summary or arbitrary executions),

introducing the report of **Mr. Heyns**, the outgoing Special Rapporteur, (A/71/372), said that, as she had taken up her mandate in August 2016, the report reflected the views of her predecessor.

15. The outgoing Special Rapporteur had spearheaded normative developments in response to emerging issues and worked to strengthen existing guidelines, such as the adoption of a general comment on the right to life by the African Commission on Human and Peoples' Rights, the development of a similar comment by the Human Rights Committee, and the updating of the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol). In collaboration with the Office of the High Commissioner for Human Rights, the Special Rapporteur had consulted extensively with experts and Member States, resulting in a final updated document issued in July 2016.

16. The emerging body of scholarship indicated a longstanding trend towards a decline in interpersonal violence, suggesting that it was not as endemic or intractable as had been thought. Creative solutions could be found to protect the right to life, including through technology. It remained important to use statistics, particularly for documenting homicides, and share them with the appropriate monitoring bodies in view of global commitments to reduce violence.

17. It was regrettable that a small number of States continued to flout international standards on the death penalty, which could no longer be regarded as compatible with the prohibition of cruel, inhuman or degrading treatment. States should implement a moratorium on the death penalty, or, failing that, execute fewer people year by year and reduce the number of offences for which the death penalty could be imposed. Technical assistance provided for combating drug crime should assert that the imposition of the death penalty for drug offences was a flagrant violation of international law. States must also be fully transparent in their use of the death penalty.

18. The intentional use of lethal force by law enforcement officials was only permissible in exceptional cases, and precaution should be a separate requirement for the use of force. For example, taking precautionary steps when managing public demonstrations reduced the risk of confrontation. In some cases, reduced use of firearms could potentially save lives. Precaution required States to equip their law enforcement officials with appropriate less-lethal weapons, although almost any use of force against individuals could cause loss of life or serious injury.

19. Regarding technology, the use of armed drones and fully autonomous weapons in armed conflict and law enforcement had led to a depersonalization of the use of force with consequences for prevention and accountability. The use of drones in a context where international human rights law was the applicable legal regime could only be justified if it was necessary in order to save lives from a truly imminent threat. Transparency in the legal and factual ramifications of drone use could guard against the risks posed. In general, the use of military-style weapons in law enforcement should be questioned as it implied that citizens were seen as a threat.

20. It was unclear whether autonomous weapons, which could select and engage targets without human intervention, could carry out lawful targeting and whether they should be permitted to target human beings. Could they make the necessary distinctions and proportionality judgements required to ensure protection of the right to life, and where would individual accountability lie when killing was carried out according to an algorithm? In order not to be arbitrary, the deprivation of life could require a deliberative human decision, and killing by machine could thus inherently violate the right to life. Consequently, there should be a moratorium on the development of autonomous weapons and weapons without meaningful human control should be banned.

21. States had failed to address systematic patterns of violence, including killings motivated by discriminatory prejudice. Increased attention to violence against journalists and human rights defenders had not yet significantly improved their safety. States had a responsibility to investigate individual cases of witchcraft-related killings and to actively discourage them, potentially through increasing sentencing and addressing underlying beliefs. With regard to honour killings, the Special Rapporteur could monitor incidents where the State either supported or approved of such killings, or extended a form of impunity to the perpetrators. There must also be greater accountability in cases of killings on the basis of gender or sexual identity. Moreover, instances where a deliberate policy

had impeded the flow of migrants or refugees, particularly when it denied them asylum and placed them in mortal danger, appeared to amount to a violation of the right to life.

22. Vulnerable groups must be given increased attention and patterns of discrimination in the use of force by law enforcement officials should be studied. The impact of terrorism on the right to life remained of concern, both because of State overreactions and because of the threats posed by terrorists themselves. The largely underexplored use of force by non-State actors should be addressed, while the Minnesota Protocol should be made accessible and known to the full range of persons and entities engaged in investigations.

23. **Mr. Ceballos** (Cuba) said that his delegation was interested in the proposal to study patterns of discrimination in the use of force by law enforcement and their impact on the protection of the right to life.

24. **Ms. Ali** (Singapore) said that the lawful imposition of the death penalty was fundamentally different to extrajudicial, summary or arbitrary executions, which Singapore strongly condemned. In his report, the previous Special Rapporteur had made several flawed claims regarding the death penalty, espousing the view that international law required its progressive abolition and prohibited its imposition for drug offences. Capital punishment remained legal under international law; drug offences were considered most serious crimes in Singapore and therefore met the threshold for the death penalty, which had been instrumental in keeping the country drug-free. She called on the Special Rapporteur to address the issue more effectively, and hoped that future reports would not make such fallacious assertions.

25. **Ms. Wilson** (Australia) said that her country reiterated its opposition to the death penalty, and urged the introduction of an immediate moratorium by States resuming or planning to resume its imposition. Australia remained deeply concerned at the failure of some States to protect persons from violence on the basis of their sexual orientation, gender identity or intersex status, congratulating the Special Rapporteur for considering that form of violence and encouraging other Special Rapporteurs to do so in the context of their mandates. She wished to know the Special Rapporteur's views on strengthening the normative framework for the protection of transgender and intersex persons.

26. **Mr. de la Mora Salcedo** (Mexico) said that the previous Special Rapporteur had presented interesting and timely questions on international humanitarian law that merited follow-up, particularly regarding autonomous weapons, the death penalty, executions by non-State actors, and the issue of migrants and refugees and the role of States in respecting their right to life.

27. **Ms. Karimdoost** (Islamic Republic of Iran) asked if additional international provisions were needed to improve the existing standards and principles for fair trials established by the International Covenant on Civil and Political Rights, and how to ensure fair trials in all situations, including those involving armed conflicts and migrants.

28. **Mr. Forax** (Observer for the European Union) said that the European Union had noted with great interest the Special Rapporteur's intention to keep the progressive abolition of the death penalty high on her agenda, and asked for information on her planned work priorities and country visits. He asked whether she would continue to highlight the killing of journalists by State or non-State actors and examine how enhanced free speech and accountability could help prevent those killings as well as for further details of how States could best utilize the Minnesota Protocol to prevent extrajudicial killings.

29. **Mr. Al-Hussaini** (Iraq) said that the previous Special Rapporteur had been unable to make a scheduled trip to Iraq for technical reasons; he invited the current Special Rapporteur to visit at her convenience.

30. **Mr. Matt** (Liechtenstein) said that the previous Special Rapporteur had argued that the imposition of the death penalty in violation of international law constituted an arbitrary deprivation of life and thus was within his mandate. He asked if the current Special Rapporteur agreed with that interpretation, and how she would continue to work on the issue. He also asked if she had engaged with the Government of the Philippines on reports of extrajudicial killings there, how she interpreted those reports, and how she had responded to them.

31. **Ms. Charrier** (France) said that neither the death penalty nor extrajudicial executions could be legitimized under the pretext of combatting terrorism or criminality. France was deeply committed to the standards of fair trial and restated its steadfast opposition to the death penalty. She urged the Special Rapporteur to continue her predecessor's work in that area. Referring to the worrying number of journalists murdered in 2015 according to the previous Rapporteur, she asked what the international community could do to effectively reduce attacks on journalists.

32. **Ms. Pritchard** (Canada) said that Canada applauded the previous Special Rapporteur's unflinching stance on killings based on sexual orientation or gender identity, including extrajudicial, summary or arbitrary executions. The report also touched on so-called "honour killings" which often went unpunished. In Canada, indigenous women faced disproportionate levels of violence, an example of multiple intersecting forms of discrimination. The Government was launching a National Inquiry into Missing and Murdered Indigenous Women and Girls. She asked what steps States should take to be more responsive to gender-related killings, and how policies could help reduce extrajudicial, summary or arbitrary executions based on sexual orientation and gender identity.

33. **Mr. Sarufa** (Papua New Guinea), referring to the mention of States flouting legislation when applying the death penalty, said that generalizations must be avoided. Under the Charter of the United Nations, countries had the sovereign right to determine their domestic policies, and the retention or application of the death penalty was a matter for each State to decide.

34. **Mr. Moussa** (Egypt) said that the lawful imposition of the death penalty was fundamentally different to extrajudicial, summary or arbitrary executions. Referring to Human Rights Council resolution 26/12, he reiterated that the Special Rapporteur was mandated to monitor the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment. No major international treaty prohibited the imposition of the death penalty, and the International Covenant on Civil and Political Rights allowed States that had not abolished the death penalty to impose it for serious violations.

35. **Ms. Mballa Eyenga** (Cameroon) said that while Cameroon strongly condemned extrajudicial, summary and arbitrary executions, the activities of special rapporteurs should not be used to promote notions or practices not accepted by certain societies and cultures and illegal under national laws. She asked the Special Rapporteur to elaborate on her priorities. She would also like to hear more about how to prevent summary and arbitrary executions by terrorists and any related recommendations.

36. **Mr. Yao** Shaojun (China) said that no international agreement prohibited the death penalty, he asked how the progressive abolition of the death penalty described in international agreements was to be achieved. The determination of serious crimes that should be subject to capital punishment was a matter for the people. The death penalty should be decided lawfully by national courts. It did not constitute extrajudicial, arbitrary or summary execution, and thus was beyond the Special Rapporteur's mandate.

37. **Ms. Rasheed** (Observer for the State of Palestine) said that Israeli occupying forces and illegal settlers were notorious for using brutal and excessive force against Palestinian civilians, including children, medics, journalists, detainees and human rights defenders with complete impunity. The previous Special Rapporteur had called for accountability for violations of human rights.. She asked how the mandate could be made more effective, particularly in the case of Palestine, so that recommendations could be implemented and Israel's longstanding violation of the right to life brought to an end.

38. **Ms. Callamard** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that there were three main challenges. First was the issue of implementation and how to ensure the effective domestication of legal and normative developments. Second, the current context was extremely complex, due in part to the increasing role of technology and the growing numbers of organized malevolent actors, who were some of the main perpetrators of large-scale killings. Third, some victims of extrajudicial, summary or arbitrary executions were less visible than others, be it at the political level or within society.

39. Based on those challenges, she had identified a number of priorities. There was a need to adopt a cross-cutting, gendered approach to addressing extrajudicial, summary or arbitrary executions, by using gender-sensitive methodology for all reports and adopting a gender-specific focus. In addition, it would be useful to explore not only the responsibilities and best practices of States in addressing violations committed by non-State actors, but also the responsibilities of non-State actors themselves, through case studies. Another focus would be improving prevention and early warning systems by exploring normative gaps. Extrajudicial executions carried out by both State and non-State actors in the context of anti-drug campaigns were another source of concern.

40. The previous Special Rapporteur had not gone beyond his mandate by addressing the issue of the death penalty. Indeed, the role of the Special Rapporteur was to examine whether the use of the death penalty amounted to an extrajudicial, summary or arbitrary execution. With regard to the assertions made by some States that defining what constituted the most serious crimes should be the responsibility of individual countries, she expressed her disagreement, noting that the entire human rights framework would be compromised if there were no universal definition.

41. **Ms. Yparraguirre** (Philippines) said that for many years her country's development efforts had been hindered by corruption, crime and the prevalence of illegal drugs. The illegal drug trade, in particular, had seriously threatened peace and order, with more than 3 million users of illegal drugs in need of rehabilitation. Determined to free the country from the manufacture, distribution and use of illegal drugs, and to save lives, the President had launched a national war on drugs in June 2016, while affirming his respect for human rights and the rule of law. The campaign was carried out with full respect for due process, and in accordance with the national Constitution and the international human rights treaties and conventions to which the Philippines was a party. There was no State policy condoning extrajudicial killings. The competent authorities were investigating the deaths that had occurred in connection with the fight against illegal drugs, and were determined to bring the perpetrators to justice. The war on illegal drugs had resulted in the confiscation of illegal drugs worth an estimated $73 million, and an unprecedented number of people voluntarily seeking rehabilitation. Lastly, the Government had extended an invitation to the Special Rapporteur on extrajudicial, summary or arbitrary executions to investigate the deaths in connection to the intensified campaign against illegal drugs.

42. **Ms. Callamard** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that she had been informed that the President's invitation had been sent on 26 September 2016, but unfortunately, she had not yet received it. In the meantime she had submitted a request to undertake a joint mission with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; they hoped to link work on the two issues, which were closely intertwined. They had also submitted a proposal to the Government of the Philippines for the convening of an expert meeting on best practices to address drug addiction, the drug trade and anti-drug campaigns, along the lines of meetings that had been held in New York. She looked forward to pursuing her mission to the Philippines.

43. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that his report (A/71/384) focused on the impact on the human rights of migrants and refugees of counter-terrorism measures that frustrated States' obligations under international refugee law to provide safe haven. Highlighting key points made in the report, he said that the link between displacement of people and risks to national security in the countries in which they sought refuge had been irresponsibly and misleadingly overblown in many States, with fears of terrorism being used to stoke public fears of the refugee crisis. There was almost no evidence that terrorist groups took advantage of refugee flows to carry out acts of terrorism or that refugees were more prone to radicalisation than others; in fact refugees and migrants fleeing regions where terrorist groups were active were themselves at risk.

44. International borders were not zones of exclusion or exception with respect to States' human rights obligations. It was therefore problematic that measures aimed at preventing terrorism had become explicitly linked to the management of cross-border movement of migrants and refugees. National legislative initiatives

designed to single out suspected radicals from among the refugee population, such as the recent legislation enacted by the United Kingdom, risked falling short of the requirements of the 1951 Convention relating to the Status of Refugees.

45. International humanitarian and refugee law were based on the principle of non-refoulement. States must not under any circumstances return individuals to countries where they risked being killed, tortured or subjected to other gross human rights violations.

46. The concerns expressed about the agreement between the European Union and Turkey which provided for the blanket return of all migrants crossing from Turkey into Greece were well-founded. Migrants risked being detained or ill-treated by Turkish officials when they were returned. The General Assembly should monitor implementation of the agreement closely. Lastly, there were worrying reports that some States were detaining migrants and refugees en masse without individualized consideration, rather than using detention only when absolutely necessary. When States did resort to detaining migrants, human rights law required that the conditions of detention must be consistent with human dignity. Moreover, the detention of children was never justified; alternatives must be provided to unaccompanied migrant children and to families with children.

47. **Mr. Rabi** (Morocco) said that it was of the utmost importance to spread the message that there was no cause-effect link between movements of people and terrorism. Counter-terrorism and migration policies should be complementary, as described in paragraph 54 of the report. He asked what States could do to prevent the stigmatisation of refugees as potential terrorists.

48. **Mr. de la Mora Salcedo** (Mexico) said that in view of the potential consequences of the fight against terrorism, the international community should work preventively to strengthen institutions that promoted and protected human rights. Terrorism must not be associated with any particular religion, nationality, civilization or ethnic group, and counter-terrorism measures must be implemented fairly and not based on stereotypes.

49. **Ms. Karimdoost** (Islamic Republic of Iran) said that the right to move to another State to seek protection was the cornerstone of the international refugee protection system. However, as a consequence of the widespread perception of refugees as potential terrorists, some countries imposed undue barriers to their entry. She asked what additional action the Special Rapporteur could take under his mandate to address the problem.

50. **Ms. Moreira Costa Pittella** (Brazil) said that her delegation shared the concerns expressed about the growing perception that the movement of people constituted a threat to national security; the collection of data at borders, which violated the rights to privacy and human dignity; and the use of detention — particularly of children — to assess migration status. It was important to recognize that restrictive migration and asylum policies could in fact counteract States' efforts to combat terrorism by encouraging irregular migration and human rights violations.

51. **Ms. Biden Owens** (United States of America) said that the refugee crisis was a test of the common humanity of the international community. In the United States, the contributions of immigrants and refugees augmented those of its original inhabitants. Her Government had implemented intense screening checks in order to both welcome refugees and maintain national security. The United States was the world's largest donor of humanitarian aid and had resettled more refugees from third countries than any other nation. In line with its commitment to help those who were cast adrift and needed to rebuild their lives, her Government would welcome up to 110,000 refugees in the coming year.

52. **Mr. Al-Hussaini** (Iraq) said that his Government was carrying out its fight against terrorism with respect for human rights and the rule of law. It had conducted seminars and distributed newsletters to members of the armed forces to reinforce a human rights culture and teach the armed forces how to deal with refugees. His Government was also collaborating with United Nations agencies to promote human rights and counter terrorism, specifically through workshops for Iraqi civil servants working in the field of law enforcement. It was opening safe corridors, evacuating civilians from dangerous regions and removing landmines placed by Islamic State in Iraq and the Levant (ISIL) to allow for the safe return of civilians. He called on the international community to assist, in particular by

providing modern technology, in removing the remnants of the battles fought by Iraqi security forces, work which had a direct impact on the return of refugees and the protection of civilians.

53. **Mr. Oppenheimer** (Netherlands), explaining his country's counter-terrorism approach, said that his country sought to strike a balance between preventive and repressive measures, including sanctions, border controls and involvement of relevant actors and agencies, all while ensuring respect for human rights. Noting the importance of close international cooperation, he said that the Netherlands was the co-chair, together with Morocco, of the Global Counterterrorism Forum, a multilateral forum intended to help implement the global counter-terrorism strategy of the United Nations.

54. While the Netherlands was committed to respecting the human rights of migrants, the country also had a responsibility to protect national and international security, for instance by detecting and apprehending returning terrorist fighters, who might use the same routes as migrants. He would be interested to know the views of the Special Rapporteur on how to resolve that dilemma.

55. **Ms. Clayton** (United Kingdom) said that it was important to address the root causes and consequences of migration and provide people with opportunities to stay closer to home. There was a need to distinguish between refugees and economic migrants in order to provide proper protection for refugees and reap the economic benefits of controlled migration. Turning to the worrying phenomenon of foreign terrorist fighters, she said that accountability must be a key element of the international community's response. She asked the Special Rapporteur to elaborate on the best ways to share and build on best practices internationally and to provide practical examples of measures that had been particularly effective.

56. **Mr. Forax** (European Union) said that the European Union was firmly committed to combating terrorism and preventing violent extremism while upholding human rights, fundamental freedoms and international law, noting that not doing so would undermine the very values that the European Union was trying to protect. Indeed, ensuring security and protecting the human rights of migrants were not opposing goals, but complementary and mutually reinforcing objectives. In that connection, the right to seek asylum and the principle of non-refoulement must be respected, while counter-terrorism strategies should strike a balance between prevention, repression and protection.

57. According to the report of the Special Rapporteur, returning foreign terrorist fighters suspected of having committed war crimes or other international crimes should not only be prosecuted under counter-terrorism legislation but should also be prosecuted for war crimes. Noting that collecting and preserving evidence would be difficult in such cases, he asked what kind of mechanisms could be put in place at the national or international level to ensure that evidence for such crimes was gathered and preserved in order to hold perpetrators to account.

58. **Mr. Uğurluoğlu** (Turkey), noting that acts of terrorism violated fundamental human rights, said that Turkey sought to strike a balance between upholding fundamental rights and freedoms and ensuring public order and security. The country's long and painful fight against terrorism had taught it that terrorism could only be addressed through international solidarity and effective bilateral and multilateral cooperation.

59. Responding to the concerns raised by the Special Rapporteur on the European Union-Turkey statement of 18 March 2016, he said that Turkey had maintained an open-door policy for Syrians since 2011 and had accepted more than 2.7 million Syrians. Turkey complied strictly with the principle of non-refoulement and there had been no change in policy. In order to grant temporary protection status to Syrians taken back from the Aegean Islands, in April 2016 the relevant regulations had been amended. Turkey was determined to continue providing protection to Syrians. As for other nationalities, Turkey would act in accordance with Turkish law, which complied with European Union standards and provided sufficient legal safeguards. International protection applications lodged by irregular migrants would be dealt with on a case-by-case basis, pursuant to Turkish legislation and international law.

60. **Ms. Kirianoff Crimmins** (Switzerland) said that persons fleeing terrorism should not be stigmatized or marginalized. Upholding human rights was essential for preventing violent extremism. Countries should not use security concerns as a pretext for refusing to

provide humanitarian assistance. In that connection, it was worrying that actors working in the fields of international humanitarian law or humanitarian assistance, particularly in regions in which terrorist groups operated, risked being prosecuted.

61. According to the report of the Special Rapporteur, migration was also occurring towards areas where terrorist groups were active. The Office of the United Nations High Commissioner for Human Rights (OHCHR) was working to identify measures to counter such movements. She asked what role the United Nations could play in ensuring that such measures were in line with human rights.

62. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that some States were using national security concerns as a pretext for avoiding their international obligations. Measures that restricted the movement of refugees and migrants, in breach of their rights under international law, inevitably stigmatized them and were not a lawful or effective basis for responding to security threats. The measures that posed the most serious human rights concerns were ethnic and religious profiling, disproportionate collection of biometric data and forced fingerprinting. In addition, many States had introduced stricter border controls, built fences and walls, engaged in push-back operations, criminalized irregular migration and abandoned pledges to accept refugees. Far from addressing security risks, such measures had contributed to the exponential growth of human trafficking operations.

63. Acknowledging the difficulty of collecting evidence to prosecute foreign terrorist fighters, he said that war crimes tribunals faced similar technical problems, as evidence needed to be collected on the ground or from witnesses who had left the area.

64. Preventive measures could help States to strike a balance between fulfilling their international obligations and protecting their citizens against terrorism. The Counter-Terrorism Implementation Task Force had an active programme of capacity-building, including use of advanced passenger information. The work of the Task Force was supported by OHCHR to ensure that such initiatives did not infringe the human rights of refugees and migrants.

The meeting rose at 12.30 p.m.